

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.
★ SEP 27 2011 ★

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

44TH AVENUE HALAL POULTRY
CORPORATION, and ABDUL
HAKIM MAZUMDER,

Defendants.

PRELIMINARY INJUNCTION **BROOKLYN OFFICE**

11-CV-1824 (NGG)

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NICHOLAS G. GARAUFIS, United States District Judge.

The United States ("Government") has sued 44th Avenue Halal Poultry Corporation and its president, Abdul Hakim Mazumder (collectively "Defendants") under the Poultry Products Inspection Act ("PPIA"), 21 U.S.C. § 451, et seq. (See Compl. (Docket Entry # 1).) The Government alleges that Defendants violated the PPIA on numerous occasions by selling uninspected poultry and poultry products to various retailers in Queens, New York. (Id.) Before the court today is the Government's motion for a preliminary and permanent injunction restraining Defendants from continuing to violate the PPIA (Docket Entry # 12), and Defendants' motion for an extension of time file an opposition (Docket Entry # 11). Because Defendants have failed to serve and file an opposition to the Government's motion within their allotted time, the Government's motion for a preliminary injunction is GRANTED and Defendants' motion for a further extension of time is DENIED. The Government's motion for a permanent injunction is DENIED without prejudice pending a final judgment in the Government's favor.

On April 18 of this year, the Government served Defendants with its proposed motion for a preliminary and permanent injunction under the PPIA. (Docket Entry # 4.) Defendants

originally had until May 18 to serve and file an opposition to the Government's motion, but the court eventually extended their time to reply until July 18. (Order Granting Mot. for Extension of Time (Docket Entry # 8).) In so doing, the court advised Defendants that "no further adjournments will be granted." (Id.) July 18 has come and gone, and yet Defendants have not served or filed an opposition to the Government's motion. They are out of time.

The Government's motion for a preliminary injunction is granted.¹ See 21 U.S.C. § 467c (specifically authorizing the court to enjoin violations of the PPIA). Not only is its motion unopposed, but the Government has demonstrated a likelihood of success on the merits—the only showing needed to obtain equitable relief under the statute. Cf. Hech Co. v. Bowles, 321 U.S. 321, 331 (1944) (stating that government requests for statutorily authorized injunctions should be considered pursuant to "the standards of the public interest, not the requirements of private litigation"); SEC v. Unifund Sal, 910 F.2d 1028, 1036 (2d Cir. 1990) (noting that under a similarly worded statute the SEC is not obligated to show a risk of irreparable harm when seeking a preliminary injunction).

Defendants are hereby enjoined from any further distribution of uninspected poultry or poultry products, or from otherwise violating the PPIA. The Government is directed to file a certificate of service of this order with the clerk of court within 24 hours of service hereof.

SO ORDERED.

Dated: Brooklyn, New York
September 26, 2011

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge

¹ The Government's motion for a permanent injunction is denied without prejudice until such time as the Government obtains a judgment establishing Defendants' liability under the PPIA.